

November 5, 2014

When an immigrant visa petitioner dies

Q: *My father is filing for me, but he's 78 and in ill health. I'm worried he may pass away soon. If the relative who is filing an immigrant petition for me dies, does my case automatically close? What are my options to immigrate?*

A: We're sorry to hear that your father is in ill health. Best wishes for his recovery.

As you know, it can take some time for immigration cases to become current. Occasionally, the petitioner may pass away before the beneficiary is eligible to immigrate. Under U.S. immigration law, the petition technically becomes invalid if the petitioner dies before the beneficiary can immigrate to the U.S. The petition is then returned to U.S. Citizen and Immigration Services (USCIS) where it was originally filed.

However, although the petition has become invalid upon the death of the petitioner, the U.S. Immigration and Nationality Act now allows certain family members to become "substitute sponsors" if a petitioner dies following approval of the visa petition, but before the beneficiary obtains his or her permanent residence. If this has happened in your case, you have the option to contact USCIS to request that a "substitute sponsor" be approved. USCIS has the ability to reinstate the petition for humanitarian reasons, and determine that the original sponsor's petition should not be revoked. The substitute or alternative sponsor must be the spouse, parent, legal guardian, sibling, child, grandparent, grandchild, or related in these ways through marriage (i.e. sister-in-law) of the sponsored beneficiary. This substitute sponsor must be residing in the U.S. as either a citizen or legal permanent resident, at least 18 years of age, and able to prove his or her ability to provide financial support.

If you have a pending immigrant petition and your petitioner passes away, you should contact the Embassy to discuss your options and receive the proper instructions for the next steps in this process. You can reach the immigrant visa section at kingstoniv@state.gov. If your visa interview is scheduled and you receive news of your petitioner's passing, please be sure to inform the consular officer of this during the interview and bring the death certificate, if possible. The officer will then be able to provide you with the necessary documents to continue your immigration process.

Best wishes to you and your family.

You can find more information about how to travel to the U.S. on our website, www.kingston.usembassy.gov. Keep on top of Embassy news on our Facebook page, <https://www.facebook.com/pages/US-Embassy-Jamaica> and by following @USEmbassyJA on Twitter. We also answer general visa questions on our Facebook and Twitter pages.